

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Pedia Manor and Kono and Joyce Tehmeh

(b) County of Residence of First Listed Plaintiff Bucks
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Patricia C. Collins, Esquire
131 W. State Street, Doylestown, PA 18901 215-230-7500

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 IIIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgement

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
Section 502(a) of ERISA, 29 USC Section 1132(a)

Brief description of cause: Denial of health benefits.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$ _____
CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

FOR THE EASTERN DISTRICT OF PENNSYLVANIA—DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: See attached list

Address of Defendant: See attached list

Place of Accident, Incident or Transaction: Quakertown, Bucks County, Pennsylvania
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases ERISA
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Patricia C. Collins, counsel of record do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 1/12/10

[Signature]
Attorney-at-Law

78648

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 1/12/10

[Signature]
Attorney-at-Law

78648

Attorney I.D.#

ADDRESSES OF PARTIES

Plaintiffs

PEDIA MANOR
2440 Old Bethlehem Pike
Quakertown, PA 18951

KONO TEHMEH and JOYCE TEHMEH
3241 Hulmeville Road, Apt. D104
Bensalem, PA 19020

Defendants

GROUP HOSPITALIZATION AND
MEDICAL SERVICES PLAN
840 First Street, NE
Washington, DC 20065

GROUP HOSPITALIZATION AND
MEDICAL SERVICES INC. d/b/a
CAREFIRST BLUECROSS BLUESHIELD
840 First Street, NE
Washington DC 20065

Address of Plaintiff: See attached list

Address of Defendant: See attached list

Place of Accident, Incident or Transaction: Quakertown, Bucks County, Pennsylvania
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

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Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
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Yes ☐ No ☒

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7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases ERISA
(Please specify)

B. Diversity Jurisdiction Cases:

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2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Patricia C. Collins, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
☐ Relief other than monetary damages is sought

DATE: 1/12/10
Attorney-at-Law

78648
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 1/12/10
Attorney-at-Law

78648
Attorney I.D.#

ADDRESSES OF PARTIES

Plaintiffs

PEDIA MANOR
2440 Old Bethlehem Pike
Quakertown, PA 18951

KONO TEHMEH and JOYCE TEHMEH
3241 Hulmeville Road, Apt. D104
Bensalem, PA 19020

Defendants

GROUP HOSPITALIZATION AND
MEDICAL SERVICES PLAN
840 First Street, NE
Washington, DC 20065

GROUP HOSPITALIZATION AND
MEDICAL SERVICES INC. d/b/a
CAREFIRST BLUECROSS BLUESHIELD
840 First Street, NE
Washington DC 20065

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

PEDIA MANOR and KONO AND JOYCE TEHMEH :
:
:
V. :
GROUP HOSPITALIZATION AND MEDICAL SERVICES :
PLAN and GROUP HOSPITALIZATION AND MEDICAL :
SERVICES INC. dba CAREFIRST BLUECROSS
BLUESHIELD

Civil Action

No: _____

DISCLOSURE STATEMENT FORM

Please check one box:

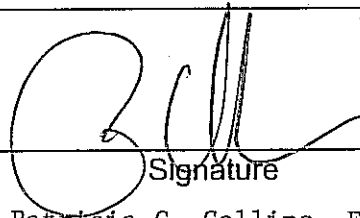
☒ The nongovernmental corporate party, PEDIA MANOR
, in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.

☐ The nongovernmental corporate party, _____
, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

Date

1/18/10

Signature



Counsel for: Patricia C. Collins, Esquire
Plaintiffs

Federal Rule of Civil Procedure 7.1 Disclosure Statement

(a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file two copies of a disclosure statement that:

- (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
- (2) states that there is no such corporation.

(b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:

- (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and
- (2) promptly file a supplemental statement if any required information changes.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

PEDIA MANOR and KONO AND JOYCE TEHMEH :

V. :

Civil Action

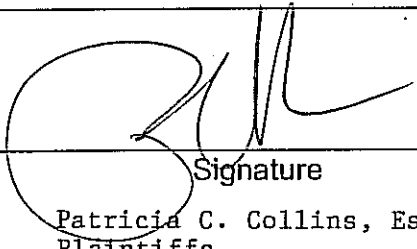
GROUP HOSPITALIZATION AND MEDICAL SERVICES :
PLAN and GROUP HOSPITALIZATION AND MEDICAL :
SERVICES INC. dba CAREFIRST BLUECROSS
BLUESHIELD

No: _____

DISCLOSURE STATEMENT FORM

Please check one box:

☒ The nongovernmental corporate party, PEDIA MANOR
, in the above listed civil action does not have any parent corporation and
publicly held corporation that owns 10% or more of its stock.☐ The nongovernmental corporate party, _____
, in the above listed civil action has the following parent corporation(s) and
publicly held corporation(s) that owns 10% or more of its stock:

_____1/18/10
Date
SignatureCounsel for: Patricia C. Collins, Esquire
Plaintiffs**Federal Rule of Civil Procedure 7.1 Disclosure Statement**(a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file
two copies of a disclosure statement that:

- (1) identifies any parent corporation and any publicly held corporation
owning 10% or more of its stock; or
- (2) states that there is no such corporation.

(b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:

- (1) file the disclosure statement with its first appearance, pleading,
petition, motion, response, or other request addressed to the court;
and
- (2) promptly file a supplemental statement if any required information
changes.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

PEDIA MANOR and KONO AND JOYCE TEHMEH :

CIVIL ACTION

v. :

GROUP HOSPITALIZATION AND MEDICAL SERVICES :

NO.

PLAN and GROUP HOSPITALIZATION AND MEDICAL :

SERVICES INC. dba CAREFIRST BLUECROSS BLUESHIELD

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (xx)

1/17/10
Date

Patricia C. Collins

Attorney-at-law

Plaintiffs

Attorney for

215-230-7500

215-230-7796

pcollins@ammlaw.com

Telephone

FAX Number

E-Mail Address

Plaintiffs, Pedia Manor and Kono and Joyce Tehmeh, by and through their undersigned counsel, hereby submit this Complaint, and state:

1. This action arises under the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.* ("ERISA"), to recover benefits due under Group Health Insurance Plan, and to recover costs and attorneys' fees as provided by ERISA.

2. This action is brought pursuant to Section 502(a) of ERISA, 29 U.S.C. § 1132(a).

JURISDICTION AND VENUE

3. The Court has subject matter jurisdiction pursuant to 29 U.S.C. § 1132(e)(1) and 28 U.S.C. § 1131, without respect to the amount in controversy. 29 U.S.C. § 1132(f).

4. Venue is proper in this district pursuant to 29 U.S.C. § 1132(e)(2) and 28 U.S.C. § 1391(b), in that one or more of the Defendants resides or may be found in this district.

THE PARTIES

5. Plaintiff Pedia Manor is a home for medically fragile and technologically dependent children located at 2440 Old Bethlehem Pike, Quakertown, Pennsylvania.

6. Plaintiffs Kono and Joyce Tehmeh are individuals residing at 3241 Hulmeville Road, Apartment D104, Bensalem, Pennsylvania, and are the parents of Joshua Tehmeh.

7. Plaintiff Kono Tehmeh is a participant in the CareFirst Group Hospitalization and Medical Services Plan, within the meaning of 29 U.S.C. § 1002(1), through his employment at H&S Bakery, Inc.

8. Plaintiff has standing to bring this action under 29 U.S.C. § 1132(a).

9. Plaintiffs Kono and Joyce Tehmeh assigned their rights to Pedia Manor to pursue payment for services provided to Joshua Tehmeh. See Assignment, attached hereto as Exhibit "A."

10. Defendant Group Hospitalization and Medical Services Plan ("the Plan") is a group health insurance plan within the meaning of 29 U.S.C. § 1002.

11. Defendant Group Hospitalization and Medical Services Inc. d/b/a CareFirst BlueCross BlueShield ("CareFirst"), is a corporation registered to do business in Pennsylvania, with its principal place of business at 840 First Street, NE, Washington DC 20065.

12. H&S Bakery Inc. is the "plan sponsor" of the Plan, within the meaning of 29 U.S.C. § 1002(16)(B)(i).

BACKGROUND FACTS

13. Joshua Tehmeh was born on July 18, 2008, extremely premature, and suffered severe hypoxic and ischemic injury to the brain.

14. Joshua suffers from profound encephalomyelopathy with plateau of head growth, arrest of neurologic development, and chronic lung disease and feeding problems.

15. His condition requires skilled nursing care to manage his multiple medical problems, and such care is medically necessary to avoid a life-threatening event.

16. Joshua receives the following medically necessary care:

- a. Respiratory care: Skilled care is required to determine whether he requires breathing treatments, including nebulizer treatments, oxygen, chest percussion therapy and postural draining and to prevent life-threatening respiratory distress.
- b. Therapy: Joshua receives speech therapy, occupational therapy, and physical therapy.
- c. Feeding: Skilled care is required to determine the appropriate nutrition and to monitor Joshua's weight and feeding tube. Joshua receives all of his nutrition through a feeding tube.

17. According to the Plan, CareFirst must provide coverage for Medically Necessary care; that is, care that a health care provider, exercising prudent clinical judgment renders to or

recommends for a patient for the purposes of preventing, evaluating, diagnosing or treating an illness, injury, diseases or its symptoms.

18. The care Pedia Manor provides to Joshua Tehmeh is Medically Necessary under the terms of the plan.

19. According to the Plan, CareFirst will not provide coverage for “custodial” care.

20. “Custodial” care is care provided to meet the activities of daily living, which can be provided by persons without professional medical skills or training.

21. On October 19, 2009, and various earlier dates, Defendants denied coverage for this care, claiming that the care was “custodial.”

22. Plaintiff timely filed an appeal of the denial.

23. Defendants denied the appeal.

24. Plaintiffs have been harmed in the amount of the cost of care at Pedia Manor.

COUNT I

CLAIM FOR BENEFITS UNDER THE PLAN

25. Plaintiff incorporates by reference the foregoing paragraphs as if more fully set forth herein.

26. The Plan provides that it will cover all Medically Necessary care.

27. According to the Plan, under the terms of the Plan, Plaintiffs were entitled to coverage for the care provided at Pedia Manor to Joshua.

28. The care provided by Pedia Manor is not custodial care.

29. Despite timely appeals, Defendants have failed and refused to provide coverage for care.

30. Plaintiff is entitled to coverage under the Plan, and the failure and result by Defendant to pay such benefits constitutes a violation of the Plan, actionable under 29 U.S.C. § 1132(a)(1).

WHEREFORE, for all the foregoing reasons, Plaintiffs respectfully request this Court to enter judgment in their favor, including attorneys' fees and costs as permitted under 29 U.S.C. § 1132(g)(1) and interest, and award such other and further relief as may be just and proper.

Respectfully submitted,

ANTHEIL MASLOW & MACMINN, LLP

By: 

Patricia C. Collins, Esquire
Attorney I.D. # 78648

PEDIA MANOR
ASSIGNMENT OF ERISA CLAIMS

We assign the right to payment for all medical benefits provided to our son, Joshua Tehmeh, directly to Pedia Manor in consideration for medical services and supplies provided pursuant to my health insurance plan.

In the event my health insurance plan refuses to pay for provided services, we also assign all of our rights under the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1101 *et seq.* to Pedia Manor, for a full and fair review of any and all denied claims, including any penalties that may be assessed against the insurance company for faulty claims processing. This ERISA assignment is in consideration for the unpaid services provided and in consideration for the continued willingness of Pedia Manor to care for Joshua Tehmeh or others covered by my plan on an insurance assignment basis. I understand that if this provider prevails in any such payment dispute, I may be liable for co-payments for the contested services.

We give consent to release medical information regarding Joshua Tehmeh to Pedia Manor. I give consent to Pedia Manor to release medical information regarding Joshua Tehmeh to my insurance company as necessary.

Kono Tehmeh
Kono Tehmeh

8/18/09
DATE

Joyce Tehmeh
Joyce Tehmeh

8/18/09
DATE

EXHIBIT "A"